

**BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA  
DOCKET NO. 2017-354-C**

IN RE:	)	
	)	
Pay Tel Communications, Inc.,	)	
Complainant,	)	<b>TESTIMONY OF J. VINCENT</b>
	)	<b>TOWNSEND</b>
Vs.	)	
	)	
Lattice Incorporated,	)	
Respondent.	)	
	)	

1    **Q.    PLEASE STATE YOUR NAME.**

2    **A.    My name is John Vincent Townsend.**

3    **Q.    BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

4    **A.    I am the President of Pay Tel Communications, Inc. ("Pay Tel").**

5    **Q.    PLEASE BRIEFLY OUTLINE YOUR BACKGROUND.**

6    **A.    I have been actively engaged in the operation of Pay Tel and the regulation of the public**  
7        telephone and inmate telephone industry since I formed the company over thirty years  
8        ago. For many years, I have represented Pay Tel and as a Board member of the American  
9        Public Communications Council and as a member of its legal committee. In this capacity  
10       I was selected to serve as an industry spokesman before State and Federal Regulatory  
11       Agencies and members of Congress on several occasions. I have also been actively  
12       involved in both state and federal level regulatory proceedings impacting the inmate  
13       calling service market for over 20 years. For the current FCC Rulemaking proceeding, I  
14       participated in two public workshops, attended numerous meetings with FCC members

1 and staff and initiated over 100 regulatory filings focused on preserving competition in  
2 the industry, protecting the interests of consumers and advocating for essential cost  
3 recovery for the nation's jails.

4 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING HERE TODAY AND WHAT IS**  
5 **THE PURPOSE OF YOUR TESTIMONY?**

6 **A.** I am testifying on behalf of Pay Tel, and the purpose of my testimony is to provide  
7 support for Pay Tel's Petition in this Docket regarding Lattice Incorporated (Lattice). As  
8 Pay Tel's Petition and this Testimony describe, Lattice is providing intrastate inmate  
9 telephone services in South Carolina without a certificate of public convenience and  
10 necessity issued by this Commission.

11 **Q. PLEASE GIVE A BRIEF OVERVIEW OF PAY TEL AND ITS OPERATIONS IN**  
12 **SOUTH CAROLINA.**

13 **A.** Pay Tel has provided inmate telephone service since 1989. Pay Tel was certified to  
14 provide inmate telephone service in South Carolina on March 4, 1991 by Order 91-22 in  
15 Docket No. 1990-305-C. Pay Tel has continuously served South Carolina confinement  
16 facilities since that date. Pay Tel provides inmate telephone service in 168 confinement  
17 facilities (county jails) in 16 states, including 12 facilities in South Carolina. Pay Tel  
18 primarily provides inmate telephone service in small to medium-size confinement  
19 facilities, such as county jails.

1 **Q. WHAT RATES DOES PAY TEL CHARGE FOR ITS SOUTH CAROLINA**  
2 **INTRASTATE INMATE TELEPHONE SERVICES?**

3 A. Pay Tel charges rates approved by this Commission that are set out in a tariff that has  
4 been filed with the Commission and with the South Carolina Office of Regulatory Staff  
5 (ORS).

6 **Q. DOES PAY TEL OWE ANY OBLIGATIONS AS A RESULT OF HOLDING A**  
7 **CERTIFICATE ISSUED BY THIS COMMISSION?**

8 A. Yes. Pay Tel contributes to the South Carolina Universal Service Fund (USF) as required  
9 by the Commission and in the amounts determined by the ORS, and pays annual gross  
10 receipts assessments based upon its gross income from operation in South Carolina. In  
11 addition, Pay Tel files various forms on an annual basis with the Commission and the  
12 ORS, including the Annual Report form and the Gross Receipts Reporting Form.  
13 Moreover, Pay Tel is responsible for the payment of the South Carolina  
14 Telecommunications Business License Tax.

15 **Q. DOES LATTICE HOLD ANY AUTHORITY FROM THIS COMMISSION?**

16 A. Not according to the Commission's document management system (DMS) located at  
17 <https://dms.psc.sc.gov/Web/Dockets>. According to the DMS, in 2015 Lattice filed an  
18 Application with the Commission seeking a "Certificate of Public Convenience and  
19 Necessity to Provide Intrastate Resold Institutional Telecommunications Services and for  
20 Alternative Regulation Within the State of South Carolina." *See* Docket No. 2015-413-C  
21 (<https://dms.psc.sc.gov/Web/Dockets/Detail/115728>). As set out in its Application,  
22 Lattice proposed "to provide automated operator assisted collect and prepaid calling  
23 services to inmates and other incarcerated persons in confinement facilities throughout

1 the State of South Carolina.” However, Lattice withdrew its Application, and the  
2 Commission approved the withdrawal on February 24, 2016 by Order No. 2016-125.

3 **Q: DOES THE ORS MAINTAIN ANY RECORDS SHOWING LATTICE AS A**  
4 **CARRIER CERTIFIED BY THIS COMMISSION?**

5 A. Yes. The ORS maintains several lists of “regulated companies” on its website  
6 (<http://www.regulatorystaff.sc.gov/telecommunications/Pages/telecomutilities.aspx>).  
7 These include 1) “Incumbent Local Exchange Carrier (ILEC) List (Updated December  
8 12, 2017)””; 2) “Competitive Local Exchange Carrier (CLEC) List (Updated December  
9 12, 2017)””; and 3) “Interexchange Carrier (IXC) Long Distance List (Updated December  
10 12, 2017)”.

11 **Q: DO THE ORS LISTS INCLUDE LATTICE?**

12 A. They do not. In particular, Lattice is not listed on the “Interexchange Carrier” list  
13 maintained by the ORS. Inmate telephone service providers have traditionally been  
14 designated as interexchange carriers or “IXCs.”

15 **Q: DOES LATTICE HAVE AN APPROVED TARIFF ON FILE WITH THE**  
16 **COMMISSION?**

17 A. No. Lattice does not appear in the Commission’s eTariff system, located at  
18 <https://etariff.psc.sc.gov/Organization>.

19 **Q: IS LATTICE PROVIDING OR PREPARING TO PROVIDE INTRASTATE**  
20 **INMATE TELEPHONE SERVICE IN SOUTH CAROLINA?**

21 A. As shown by the attached **Exhibit A**, Lattice was awarded the contract to provide the  
22 “Inmate Phone System” for Union County, South Carolina in early September, 2017. In  
23 addition, Lattice began providing service to Colleton County, South Carolina in 2017.

1 Pay Tel was the previous provider of inmate telephone services to Colleton County, and  
2 the services Pay Tel provided there were those regulated by this Commission.

3 **Q: FROM YOUR PERSPECTIVE, WHY IS IT IMPORTANT THAT EVERY**  
4 **INMATE TELEPHONE PROVIDER BE PROPERLY CERTIFIED BY THIS**  
5 **COMMISSION?**

6 A. Pay Tel, and each inmate telephone service provider holding a certificate from this  
7 Commission, has demonstrated the technical, financial, and managerial capability to  
8 provide intrastate telephone services in South Carolina. The certification requirement  
9 provides a necessary point of entry for vendors, and permits the regulatory agency to  
10 verify that each vendor is a viable operation that is aware of and agrees to comply with  
11 state regulations. If compliance with laws and regulations (including certification) is  
12 required, then it must also be true that operation without certification is prohibited.  
13 Without enforcement, vendors have little incentive to comply with regulations.  
14 Moreover, those vendors that choose to respect the regulatory authority are disadvantaged  
15 by the cost of compliance when one or more companies do not pay those costs.

16 **Q: HAS LATTICE DEMONSTRATED THE TECHNICAL, FINANCIAL, AND**  
17 **MANAGERIAL CAPABILITY TO PROVIDE INMATE TELEPHONE SERVICE**  
18 **IN SOUTH CAROLINA?**

19 A. No. As I mentioned above, Lattice withdrew its previous application, presumably because  
20 its financial statements showed its poor financial condition. The Lattice 10-K (for the  
21 fiscal year ending December 31, 2014) that Lattice filed with its Application in Docket  
22 No. 2015-413, (and cited by the Hearing Examiner in that Docket), stated that "We  
23 [Lattice] may not be able to continue as a going concern without additional financing. If

1 such financing is not available to us or is not available to us on acceptable terms, we may  
2 be forced to cease operations." The 10-K also states: "We need to maintain current  
3 sources of funding and obtain new sources of funding in order to continue our  
4 operations." And further the 10-K states "We currently have a number of on-demand  
5 liabilities that could be called at any time."

6 **Q. HAS LATTICE' FINANCIAL CONDITION IMPROVED SINCE IT WITHDREW**  
7 **ITS APPLICATION BEFORE THIS COMMISSION?**

8 A. No. Publicly available data on Lattice's financials since the timeframe of its application  
9 show that its financial condition has actually worsened since the 2014 and 2015  
10 timeframe. See **Exhibit B**, 2016 Annual Financial Statements filed with the Alabama  
11 Public Service Commission. In any event, the Commission must make the determination  
12 of whether Lattice is financially fit and otherwise qualified to provide services in South  
13 Carolina.

14 **Q. IN WHAT OTHER WAYS IS THE PUBLIC DISADVANTAGED BY A CARRIER**  
15 **THAT DOES NOT POSSESS A CERTIFICATE OPERATING IN SOUTH**  
16 **CAROLINA?**

17 A. As I stated above, Lattice has not filed a tariff with the ORS and the Commission for  
18 approval. South Carolina law makes clear that a telephone company cannot charge and  
19 collect rates unless that company has an approved tariff on file with the Commission.  
20 Moreover, because Lattice has not submitted to the jurisdiction of the Commission, no  
21 Lattice customer has the option to contact the ORS in the event that a rate or billing or  
22 customer service question arises.

1    **Q.     WHY DOES PAY TEL HAVE AN INTEREST IN MAKING SURE THAT ALL**  
2       **INMATE PROVIDERS ARE PROPERLY REGULATED?**

3    A.     To be clear, Pay Tel is not a disgruntled bidder with respect to Union County seeking to  
4       use the regulatory process to gain a contract. Pay Tel would not be next in line in the  
5       event that Lattice were disqualified from serving Union County. However, Pay Tel does  
6       have a strong interest in playing by the same rules as its competitors. Pay Tel takes its  
7       regulatory obligations seriously, and is disadvantaged, financially and otherwise, when  
8       other inmate providers do not meet those same obligations.

9    **DOES THIS CONCLUDE YOUR TESTIMONY?**

10   A.     Yes, it does.

## RFP for Inmate Phone System for Union County

Committee Members of Evaluation:

Frank Hart, Robbie Hines, Niel McKeown, David Taylor

Evaluating Factor:	Points Possible	Actual:
Qualifications, Experience and References		30
Methodology, Approach to Scope of Work, Schedule of Implementation		30
Price Proposal		40

	PayTel	NCIC	Legacy	Lattice
Qualifications:	25%	30%	DISQUALIFIED	30%
Methodology:	20%	27%	DISQUALIFIED	30%
Price Proposal:	20%	35%	DISQUALIFIED	38%
<b>TOTAL:</b>	<b>65%</b>	<b>92%</b>	<b>DISQUALIFIED</b>	<b>98%</b>

Committee Members award the Inmate Phone Service Contract to  
Lattice

The date of completion: (45 days or less) **October 20, 2017**





151 Southhall Lane  
Maitland, FL  
32751  
P.O. Drawer 200  
Winter Park, FL  
32790-0200

Tel: 407-740-8575  
Fax: 407-740-0613  
tmi@tminc.com

March 30, 2017  
**Via Overnight Delivery**

Mr. Mac McArthur  
Alabama Public Service Commission  
100 North Union, Suite 950  
Montgomery, AL 36104

RE: AL Annual Financial Statements - INMATE

Dear Mr. McArthur:

Enclosed please find financial statements for Lattice Incorporated for their fiscal year ended 2016. This information is being supplied to you in compliance with the Alabama Public Service Commission requirement for Annual Report submission.

A copy of this report has been emailed to Tom.Jones@psc.alabama.gov and Darrell.Baker@psc.alabama.gov.

Questions pertaining to this filing should be addressed to my attention at 407-740-8575. Thank you for your assistance.

Sincerely,

Carly Fiola  
Compliance Reporting Specialist

enclosures

cc: , Lattice Incorporated  
file: Lattice Incorporated - Reporting- Alabama

<b>LATTICE INC.</b>		
<b>INCOME STATEMENTS</b>		
		<b>FYE 016</b>
		Prelim.
Recurring revenue		\$ 3,813,533
Technology sales		1,468,546
Total Revenue		\$ 5,282,079
Cost of Revenue		\$ 3,179,049
Gross Profit		2,103,030
%		39.8%
Operating expenses		4,367,776
Income (loss) from operations		(2,264,746)
Other income (expense):		67,385
Interest expense		(1,151,524)
Income (Loss) PreTax		(3,348,886)
Income taxes		-
Net income (loss)		(3,348,886)

LATTICE INC	
	31-Dec-16
	ACT
	Prelim.
<b>BALANCE SHEETS:</b>	
<b>ASSETS:</b>	
Current assets:	
Cash and cash equivalents	\$ 5,866
Accounts receivable, net	837,954
Accrued receivables	\$ 92,501
Inventories	48,322
Costs and gross profit in excess of billings	140,261
Other current assets	47,543
Total current assets	1,172,448
Property and equipmen, net	256,993
Other intangibles, net	390,015
Other assetes	60,012
Total assets	\$ 1,879,468
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>	
Current liabilities:	
Trade_ payables	\$ 2,527,705
Accrued expenses	\$ 1,022,142
Accrued interest	\$ 449,890
Customer advances	\$ 598,622
Debt discount	\$ (391,636)
Interco payables	
Notes payable	\$ 6,809,493
Deferred revenue	\$ 103,078
Capital lease payable	\$ 7,192
Derivative liability	\$ 45,183
Total current liabilities	11,171,670
Long term liabilities:	
Total long term liabilities	-
Total liabilities	11,171,670
Shareholders' equity	
Paid-in capital	39,884,062
Accumulated deficit	(48,618,168)
Accumulated other comprehensive income	-
	(8,734,107)
Stock held in treasury, at cost	(558,096)
Equity Attributable to shareowners of Lattice Incorporated	(9,292,202)
Equity Attributable to noncontrolling interest	-
Total liabilities and shareholders' equity	\$ 1,879,468

Lattice Incorporated,  
Respondent.

## CERTIFICATE OF SERVICE

**VIA ELECTRONIC MAIL SERVICE**

Jenny Pittman, Esquire  
South Carolina Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201  
[jpittman@regstaff.sc.gov](mailto:jpittman@regstaff.sc.gov)

**VIA FIRST-CLASS MAIL SERVICE**

Lattice Incorporated  
National Registered Agents, Inc.  
2 Office Park Court, Suite 103  
Columbia, SC 29223

s/John J. Pringle, Jr.

January 10, 2018  
Columbia, South Carolina